SPECIAL
COLLECTIONS
DOUGLAS
LIBRARY

QUEEN'S UNIVERSITY
AT KINGSTON

KINGSTON ONTARIO CANADA

spec
coll
DOU
LIBR
quee
AT ki
KINGST

[WHITCOMBE, S]

h.10

£8 00

A

REFUTATION

OF THE

CHIEF DOCTRINES

OF THE

PARLIAMENTARY REFORMERS.

LONDON:

PRINTED BY R. CANTWELL, 29, BELL YARD,
TEMPLE BAR.

AC 911. 1906 W49

A

REFUTATION OF THE LEADING DOCTRINES OF THE PARLIAMENTARY REFORMERS.

They bawl for freedom in their senseless mood,
Yet still revolt when truth would set them free,
Licence they mean, when they cry liberty,
For who loves that must first be wise and good.

MILTON.

"HE that goeth about," says the judicious Hooker, "to persuade a multitude that they "are not so well governed as they ought to "be, shall never want attentive and favourable "hearers." The reason of this is well expressed by Tacitus. "Detraction and envy "are always listened to with attention, as the "maligant effusions seem to be dictated by a "false spirit of liberty." "*Obtrectatio et li-*"*vor pronis auribus accipiuntur; quippe ma-*"*lignitati falsa species libertatis inest.*" This is, at once, applicable to the factious clamourer, who censures indiscriminately, every act of that administration of which he forms no part; and to the horde of Parliamentary Reformists

of the present day, whose object, amongst others equally mischievous, seems to be, to exclude from the House of Commons, men of rank, property, and principle, (as is very much the case in America), and to introduce in their stead, persons possessing neither the one nor the other. I shall but slightly advert to the meetings convened for the purpose of voting Thanks and Freedom to Mr. Wardle, because, the country seems to be recovering from its delusion in this respect; but shall principally confine myself to what is speciously but delusively called, a "*Reform of Parliament,*" at the head of which, I see *Major John Cartwright* *; and as I know what were formerly his ideas on this subject, and have reason to believe that he still retains them, I shall take the liberty of stating and commenting upon them, without any apology to him or his fellow labourers for so doing†.

The Major some years ago, published a

---

* "Ex uno disce omnes."—VIRGIL,

†"Qui se sent galeux se gale."

pamphlet under the title, " *Give us our Rights,*" and another, which I think he called, " *The People's Barrier ;*" and though I cannot immediately refer to them, I can state some of their leading points. He, in one or both these Pamphlets, and his abettors and confederates, the Monthly Reviewers of *that day,* with an assurance unblushing and unparalleled, maintained two positions; 1st. " That *Uni-*" *versal Suffrage,*" and 2dly. That " *Annual* " *Parliaments,* are the rights of the People, " and were the ancient constitution of the " Country :" and in support of the first, contended that the stat. of 7 Hen. IV. gave, or as they would have it, restored the right of Universal Suffrage, which they insisted was exercised from that time down to the reign of Henry VI. when it was wrested from their friends the mob, *not* they say by the English Constitution * but by the English Parliament;

---

* Now I beg leave to ask Major Cartwright and his fellow levellers, whether the sovereignty of the English constitution is not to be found in the three distinct branches that compose the English parliament? And, wherein the English constitution, and the ordinances of those powers in which its sovereignty is lodged, differ?

namely, by the stat. of the 8th year of that king's reign, which requires the forty shillings a year freehold, as a qualification: and this they called a robbery and usurpation.

Now let us see what foundation there is for this assertion. The stat. of 7 Hen. IV. c. 15. complains of the undue Election of Knights of the Shire, which it asserts were sometimes made of affection of Sheriffs; and then it ordains, that from thenceforth the election shall be thus had, *viz.* that at the next county court, to be holden after the delivery of the writ of Election to the Sheriff, he shall make proclamation " of the day and place of the Parliament, *and* " *that all they that be there present, as well* " *suitors duly summoned for the same cause* " *as others,* shall attend to the Election of the " Knights for the Parliament, and then in the " full county court they shall proceed to the " Election, freely and indifferently, notwith- " standing any request or commandment to " the contrary." The words, " *All they that* " *be there present, as well suitors duly sum-* " *moned for that cause as others;*" are those,

on which these advocates for universal suffrage rely, as conferring the right of suffrage on every person residing in the county; but, surely a more fallacious and preposterous position was never advanced. Where, let me ask them, is the Election to be? Why at the Sheriff's County Court. By whom is it to be made? Why, by the suitors to that court. Who are the suitors to the county court? Why, the Freeholders of the county and none other*. The place therefore, and the persons mentioned in this statute, emphatically shew, that none but Freeholders could have a right of voting under it, and that the Legislature never had it in contemplation to extend this right to any others. In fact, it plainly appears by the preamble, that the evil to be remedied was, the arbitrary and illegal

---

* Owners of free and common Soccage Lands are the proper suitors to the county court, wherein the law has directed all Elections by Freeholders to be made.—Black. L. T. 211.

Villan-socmen, though of a superior rank to the puri vilani, or common copyholder, yet not being of the degree of libersocmani or common Freeholder, were not suitors as appears by the author of Fleta, who, speaking of Villan-socmen, says, "Non sectas faciunt ad comitatum."

conduct of Sheriffs, who seem to have been in the habit of summoning to the county court, for the purpose of the Election, such suitors or Freeholders only, as would be tractable to their will, and then to refuse the votes of those who attended without being summoned; and therefore this officer is directed to admit, (as was always his duty to do), as well the suitors or Freeholders who might not have been summoned to attend there for the purpose of the Election, as those who had been summoned for that particular cause: but in no sort or way can this statute be construed to direct him to take, or to give him authority to receive, the vote of any person but a suitor to his county court, or in other words, a Freeholder. If it were necessary to multiply authorities in so plain a case, it would only be for me to observe, that the writ of Election at this day, contains the mandatory part of this statute, and directs the Sheriff to make proclamation of the Election at his county court, and to cause such Election to be made freely and indifferently, "*by those who at such proclamation shall be present.*" But surely it will

not be contended, that the Sheriff is not bound to reject the vote of all, except Freeholders. Indeed the case is so obvious, that I should not have alluded to the form of the writ, were it not to shew that by the words, "*all that* "*are there present,*" used in the statute, the Legislature meant, "*all the suitors or Free-* "*holders present at the county court,*" and nothing more.

I admit that, till the Statute of 8 H. 6. c. 7, every Freeholder, though his freehold might be only five shillings, or even one shilling a year, had the right of voting for Knights of the Shire, as is the case at this day in the Election of Coroners, Verderors, &c. Now what was the occasion of making this Statute of H. 6.?—What! why the tumults, disorder, and confusion, which arose from those five shilling, or one shilling a year Freeholders participating in the privilege of voting. This appears by the recital of the Act, the truth of which has never been denied. This recital is, that "the Election of Knights of Shires "to come to the Parliament, in many counties of "the realm of England, have now of late been

" made by very great outrageous, and exces-
" sive number of people, dwelling within the
" same counties, of which the most part
" was of people of small substance, and of no
" value, whereof every of them pretended a
" voice, equivalent, as to such Election to be
" made, with the most worthy Knights and
" Esquires, whereby man-slaughters, riots, bat-
" teries, and divisions among the gentlemen
" and other people of the same counties, shall
" very likely rise and be, unless convenient and
" due remedy be provided in this behalf:" and then it enacts and declares, that the Knights of the Shire shall be chosen in every county by people, " whereof every one shall have free-land or tenement to the value of 40s. * by

* In 1429, when this act passed, eleven ounces of silver of Troy weight (with a fraction), together with a certain quantity of copper, sufficient to harden it, were cut into twenty shillings, now into sixty-two shillings; so that a pound sterling, and a pound Troy, were then of equal weight; and the weight of one shilling then was equal, or nearly equal, to the weight of two shillings and six-pence of modern coin; therefore forty shillings, in the year 1429, was nearly as heavy as five pounds in silver is now: and if to this there is taken into consideration the difference between past and present times, respecting both the rents of land, and prices of provisions, &c. it must be

" the year, at the least, above all reprizes;" and that he who cannot expend 40*s.* by the year, shall in no wise be chuser of the Knights for the Parliament.

Now, I flatter myself I have succeeded in shewing, that no person, unless he was the owner of some freehold estate, had the privilege of voting for a Knight of the Shire in virtue of the Statute of 7th H. 4; and I will add, that no person, unless he had some freehold property, had this privilege anterior to this Statute.

And can any man of ordinary observation, and common honesty, seriously assert, with the most distant prospect of obtaining credit for the assertion, that the rabble of the year 1809, drilled, as they have been for some years past, " by the disseminators of discontent, the " propagators of reports of secret influence, of

---

allowed, that a mass of silver of that weight was equal to at least forty pounds value of present income. Tucker on England's former Gothic Constitution, page 349, 350. I will add, equal to fifty pounds at least at this day.

" dangerous counsels, of violated rights, and " encroaching usurpation," would be less likely to be guilty of the enormities complained of in the statute of Hen. VI. than the Freeholders of from one shilling, or if you please, from five shillings to thirty-nine shilling a year, were in the year 1429; and especially when it is considered, that the number of Electors in every county, provided universal suffrage, or any thing like it, was resorted to, would exceed, in a hundred-fold degree, the number who, even prior to this statute, participated, or could by law participate in the exercise of the elective franchise, and in a five hundred fold degree, the number of persons who, in the eighth year of that King's reign, had a freehold estate of forty shillings a year; which must be obvious to any person at all acquainted with the state of society at that time, and particularly to every one acquainted with the nature of the feudal system, and the principles on which it was founded.

I might here observe, that the greatest calamities of Rome, and even the final loss of its

liberties, are attributed * to the confusion which arose in the public Elections, by indulging too large a number of persons in the participation of the privilege of Roman citizens; and I hope and trust, that ninety-nine persons out of every hundred, when they come to reflect on the subject, will see that nothing less than the subversion and annihilation of the constitution of England, could follow the adoption of universal suffrage. Virgil gives a description of popular tumult, which, though strong, is not strong enough to apply to such an event;

" Sævit animis ignobile vulgus
" Jamque faces et saxa volant: furor arma ministrat.

With respect to the second position, viz. " That *Annual Parliaments* are the ancient constitution of the country," I deny it in toto. They never were so.

Anciently the King had a discretionary power, both of *calling* a Parliament together, and of dissolving it, according to his own will:

* Black. Comm. Vol. I.

but by an act of 4 Edward III. cap. 12. it is declared, that a Parliament shall be holden every year once, and more often, if need be; and this is confirmed by the statute of the 36th of the same King, cap. 10. Now what do these acts amount to? why, that a *Session of Parliament* shall be holden every year, and *not* that there shall be an *Annual Election*;* and so far, and so far only, the power of the King was limited by these statutes, his power of dissolving Parliament still remaining as it was before. In the reign of Charles I. this dissolving power was taken from the Crown, and lodged with the House of Commons, which totally overturned the constitution. After the Restoration, it was restored to the Crown again, and till the act of 6 William and Mary, cap. 2. the duration of Parliament was only limited

---

* Vide Hatsel's Precedents, Vol. II. pages 276—278, in the notes, where he shews from various acts of Parliament, from the debates and resolutions of the most jealous Parliaments, from the practice of from two to three hundred years, and above all, from the declaration of the bill of rights, that this is the true construction of these acts of Parliament. And vide Black. Comm. 14th edit. vol. I. page 153.

by the pleasure or death of the King. By that statute, it was enacted and declared, that from thenceforth no Parliament should have continuance longer than for three years; but still it was competent to the King to dissolve it as much sooner as he pleased. By the 1st Geo. I. stat. 2. cap. 38. it is declared, that the statute of 6 William and Mary, cap. 2. had been found very grievous and burdensome, and occasioned much greater and continued expences in Elections, and more violent and lasting heats and animosities among the subjects of the realm, than were ever known before the passing of it; and the statute of 1st Geo. I. therefore enacted and declared, that that Parliament, and all Parliaments thereafter to be called, should have continuance for seven years, unless sooner dissolved by the King. And here let me ask the Reformers of the present day, what there is unconstitutional in this Septennial act? Can it for a moment be pretended, that Parliament might not, without any stretch of its authority, have repealed the Triennial act? And it is certainly true, as observed by Mr. Christian in a note in the first volume of Blackstone's Com-

mentaries, that the simple repeal of it would have extended the continuance of Parliament much beyond what was done by the Septennial act; so that the whole affair may be thus summed up: The King is, by the statute of Edward III. above quoted, to call a Parliament together every year, but the same Parliament cannot now continue longer than seven years; but his power of dissolving it may be exercised as often as he shall think proper within that period. Now, from this state of the case, it is easy to be seen, that the restrictions in question are *not* restrictions on the power of the people, specifying for how many years they can elect, but on the prerogative of the Crown, defining how long the Prince can continue the same Election of the people without dissolving it: and, from an induction of particulars, it clearly appears, that at first he might have continued the same Election during his life, (as was formerly the case in Ireland*); that in the reign of

---

* Until the Irish octennial act, the house of representatives, elected at the accession of a new king, continued during his life, unless he thought fit to dissolve it sooner.

Charles I. this power was totally taken from him; that afterwards it was restored; that in the reign of William III. it was limited to three years, and in the reign of George I. to seven years, where it now remains; but that the powers, privileges, or liberties of the people, that is, of the Electors, were neither enlarged or abridged by such regulations, it being the regal prerogative only which was thus affected by these various statutes.

Now I trust I have sufficiently proved my assertion, "that *annual elections* never were "the law of England," and as a well-wisher to my country, I most fervently hope and trust that they never will be so, being persuaded that if they were, they would annihilate the constitution, which in spite of imperfections, inseparable from all human institutions, is the pride and boast of all good men living under it, and the envy and admiration of surrounding nations.

With respect to triennial parliaments, the project has been tried and found wanting;

and, unless we would wish a recurrence of those evils and mischiefs, so loudly and justly complained of in the septennial act, and which were the principal if not sole cause of passing it, it becomes the bounden duty of every thinking well intentioned man, to set his face against, and oppose "*pro aris et focis*," every attempt to restore *triennial parliaments*, and equally to set his face against and oppose, the visionary, delusive, and mischievous attempts to intermeddle, other than by mere regulation, with the laws and constitution of parliament, either as they respect the *elected* or the *electors;* and to "unite in a general abhor-
"rence of those, who by deceiving the credu-
"lous with fictitious mischief, overbearing the
"weak by audacity of falsehood, by appealing
"to the judgment of ignorance, and flattering
"the vanity of meanness, by slandering ho-
"nesty and insulting dignity, gather round
"them whatever the kingdom can supply, of
"base, and gross, and profligate."

"Government formed, (as the English go-
"vernment is), and gradually improved by

" such expedients as the successive discovery " of their defects happened to suggest, are not " to be tried by a regular," much less by a wild " theory. They are fabrics of dissimilar " materials, raised by different architects upon " different plans. We must be content with " them as they are, should we attempt to " amend their disproportions we might easily " demolish, but with difficulty rebuild them." Not that I would have it inferred from this quotation, that I wish to exclude resorting to such gradual and temperate expedients for amelioration and improvement, as the successive discovery of defects may suggest, such for instance, as the different boards of Inquiry now on foot under the sanction of Parliament, and from which we may fairly anticipate the most beneficial results.

There is a passage in Bishop Stillingfleet's works so apposite to my subject, that I cannot refrain from transcribing it. "If," says he, " we once depart from the ancient and legal " constitution of Parliaments, there will be no " end of alterations. Every new modeller of

"government hath something to offer that "looks like reason, at least to those whose in- "terest it is to carry it on: and, if no prece- "dent can be found, then they appeal to a "certain invisible thing called, *the Funda- "mental Contract of the Nation*, which being "no where to be found, may signify what any "one pleaseth." Vol. III. page 874.

As to that phantom of an argument insisted upon by many persons, *viz.* that the elected are the mere attornies of the Electors, and bound implicitly to follow their instructions, it is a waste of time to notice it, nor should I do so were it not to introduce the opinion of a writer, whose knowledge of the constitution they will not be likely to dispute. Algernon Sidney, in his discourses concerning government, says, speaking of the power of delegates, "It is not therefore for "Kent, or Sussex, Lewes, or Maidstone, but "for the whole nation, that the members "chosen in those places are sent to serve in "parliament: and though it be fit for them as "friends and neighbours, (so far as may be) to

" hearken to the opinion of their Electors, for " the information of their judgment; and to " the end, that what they shall say may be of " more weight, when every one is known, not " to speak his own thoughts only, but those of " a great number of men; yet they are not " strictly and properly obliged to give account " of their actions to any; unless the whole " body of the nation (for which they serve, " and who are equally concerned in their reso- " lutions) could be assembled. This being im- " practicable, the only punishment to which " they are subject if they betray their trust, is " scorn, infamy, hatred, and an assurance of " being rejected when they shall again seek the " same honour."

I cannot conclude without asserting, that notwithstanding the declamation of the levelling faction, the rights and liberties of the subject, the independence of parliament, and in a word, the British constitution, have been cherished and fostered; and more constitutional acts have been passed during the reign of his present Majesty (whom God long preserve) than in any preceding century.

Let us therefore set a proper value on the blessings we enjoy, and unite in steadily avowing and maintaining our loyalty to our sovereign, and our attachment to genuine freedom, and disdain to be led away by the insidious harangues of tavern plotters and declaimers.

CAUSIDICUS.

FINIS.

Cantwell, Printer, Bell Yard.